

manufacture of the product was completed prior to May 19, 1980. Any central air conditioner or any pulse combustion or condensing furnace if its manufacture was completed prior to June 7, 1988. Any fluorescent lamp ballast if its manufacture was completed prior to January 1, 1990. Any showerhead, faucet, water closet or urinal if its manufacture was completed prior to October 24, 1994. Any pool heater, instantaneous water heater, or heat pump water heater if its manufacture was completed prior to December 29, 1994. Any general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including any incandescent reflector lamp), if its manufacture was completed prior to May 15, 1995.

(3) Any catalog or point-of-sale printed material pertaining to any covered products that were manufactured prior to May 19, 1980; any catalog or point-of-sale printed material pertaining to any central air conditioners or pulse combustion or condensing furnaces manufactured prior to June 7, 1988; any catalog or point-of-sale printed material pertaining to any fluorescent lamp ballasts manufactured prior to June 23, 1989; any catalog or point-of-sale printed material pertaining to any showerheads, faucets, water closets or urinals manufactured prior to October 24, 1994; any catalog or point-of-sale printed material pertaining to any pool heaters, instantaneous water heaters, or heat pump water heaters manufactured prior to December 29, 1994; or any catalog or point-of-sale printed material pertaining to general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector lamps), that were manufactured prior to May 15, 1995; except that any representations respecting the energy consumption, energy efficiency, or water use of any covered product or other consumer appliance product, or respecting the cost of energy consumed or water used by such product, are subject to the requirements of paragraph (d) of this section.

(f) As used in paragraphs (a) and (b) of this section, the term *knowingly* means:

(1) The having of actual knowledge, or

(2) The presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

[52 FR 46894, Dec. 10, 1987, as amended at 54 FR 28035, July 5, 1989; 58 FR 54964, Oct. 25, 1993; 59 FR 49563, Sept. 28, 1994; 59 FR 67526, Dec. 29, 1994; 61 FR 54549, Oct. 21, 1996; 72 FR 49966, Aug. 29, 2007]

TESTING

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.

(a) Procedures for determining the estimated annual energy consumption, the estimated annual operating costs, the energy efficiency ratings, and the efficacy factors of the following covered products are those located in 10 CFR part 430, subpart B. For the following list of covered products, the requirements of this part apply only to products for which the Department of Energy has adopted and published test procedures for measuring energy usage or efficiency.

(1) Refrigerators and refrigerator-freezers—§ 430.23(a).

(2) Freezers—§ 430.23(b).

(3) Dishwashers—§ 430.23(c).

(4) Water heaters—§ 430.23(e).

(5) Room air conditioners—§ 430.23(f).

(6) Clothes washers—§ 430.23(j).

(7) Central air conditioners and heat pumps—§ 430.23(m).

(8) Furnaces—§ 430.23(n).

(9) Pool Heaters—§ 430.23(p).

(10) Fluorescent lamp ballasts—§ 430.23(q).

(11) Ceiling Fans—§ 430.23.

(b) Manufacturers and private labelers of any covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), must, for any representation of the design voltage, wattage, light output or life of such lamp or for any representation made by the encircled "E" that such a lamp is in compliance with an applicable standard established by section 325 of the Act, possess and rely

§ 305.5

16 CFR Ch. I (1–1–11 Edition)

upon a reasonable basis consisting of competent and reliable scientific tests substantiating the representation. For representations of the light output and life ratings of any covered product that is a medium base compact fluorescent lamp or incandescent lamp (including an incandescent reflector lamp), the Commission will accept as a reasonable basis competent and reliable scientific tests conducted according to the following applicable IES test protocols that substantiate the representations:

For measuring light output (in lumens):	
General Service Fluorescent ..	IES LM 9
Compact Fluorescent	IES LM 66
General Service Incandescent	
(Other than Reflector	IES LM 45
Lamps).	
General Service Incandescent	
(Reflector Lamps)	IES LM 20
For measuring laboratory life	
(in hours):	
General Service Fluorescent ..	IES LM 40
Compact Fluorescent	IES LM 65
General Service Incandescent	
(Other than Reflector	IES LM 49
Lamps).	
General Service Incandescent	
(Reflector Lamps)	IES LM 49

(c) Procedures for determining the water use rates of covered products are those found in the following standards:

(1) Showerheads and faucets—ASME A112.18.1M–1989, Plumbing Fixture Fittings. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASME A112.18.1M may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(2) Water closets and urinals—ASME A112.19.2M–1990, Vitreous China Plumbing Fixtures. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASME A112.19.2M may be ob-

tained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

[58 FR 54964, Oct. 25, 1993, as amended at 59 FR 34033, July 1, 1994; 59 FR 49564, Sept. 28, 1994; 59 FR 67527, Dec. 29, 1994; 66 FR 27858, May 21, 2001; 69 FR 18803, Apr. 9, 2004; 72 FR 49967, Aug. 29, 2007; 73 FR 63067, Oct. 23, 2008]

EFFECTIVE DATE NOTE: At 75 FR 41714, July 19, 2010, §305.5 was amended by adding paragraphs (a)(12), (13) and (14) and revising paragraph (b), effective July 19, 2011. For the convenience of the user, the added and revised text is set forth as follows:

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.

(a) * * *

(12) General Service Incandescent Lamps – § 430.23(r).

(13) General Service Fluorescent Lamps – § 430.23(r).

(14) Medium Base Compact Fluorescent Lamps – § 430.23(y).

(b) Unless otherwise provided in paragraph (a) of this section or §305.8, manufacturers and private labelers of any covered product that is a general service fluorescent lamp, general service lamp, or metal halide lamp fixture, must, for any representation required by this Part including but not limited to of the design voltage, wattage, energy cost, light output, life, correlated color temperature, or color rendering index of such lamp or for any representation made by the encircled “E” that such a lamp is in compliance with an applicable standard established by section 325 of the Act, possess and rely upon a reasonable basis consisting of competent and reliable scientific tests substantiating the representation. For representations of the light output and life ratings of any covered product that is a general service lamp, unless otherwise provided by paragraph (a), the Commission will accept as a reasonable basis scientific tests conducted according to the following applicable IES test protocols that substantiate the representations:

Federal Trade Commission

§ 305.7

For measuring light output (in lumens):	
General Service Fluorescent	IES LM ⁹
Compact Fluorescent	IES LM ⁶⁶
General Service Incandescent (Other than Reflector Lamps)	IES LM ⁴⁵
General Service Incandescent (Reflector Lamps)	IES LM ²⁰
General Service Light-emitting Diode (LED or OLED) lamps	IES LM ⁷⁹
For measuring laboratory life (in hours):	
General Service Fluorescent	IES LM ⁴⁰
Compact Fluorescent	IES LM ⁶⁵
General Service Incandescent (Other than Reflector Lamps)	IES LM ⁴⁹
General Service Incandescent (Reflector Lamps)	IES LM ⁴⁹

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§ 305.6 Sampling.

(a) For any covered product (except general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps, including incandescent reflector lamps), any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.24 of 10 CFR part 430, subpart B.

(b) For any covered product that is a medium base compact fluorescent lamp or a general service incandescent lamp (including an incandescent reflector lamp), any representation of design voltage, wattage, light output or life and, for any covered product that is a general service fluorescent lamp or incandescent reflector lamp, any representation made by the encircled "E" that such lamp is in compliance with an applicable standard established by section 325 of the Act shall be based upon tests using a competent and reliable scientific sampling procedure. The Commission will accept "Military Standard 105—Sampling Procedures and Tables for Inspection by Attributes" as such a sampling procedure.

[59 FR 67527, Dec. 29, 1994, as amended at 66 FR 27858, May 21, 2001]

EFFECTIVE DATE NOTE: At 75 FR 41714, July 19, 2010, § 305.6 was revised, effective July 19, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 305.6 Sampling.

(a) For any covered product (except general service fluorescent lamps or general service lamps), any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.24 of 10 CFR part 430, subpart B.

(b) For any covered product that is a general service lamp, any representation required by § 305.15 and, for any covered product that is a general service fluorescent lamp or incandescent reflector lamp, any representation made by the encircled "E" that such lamp is in compliance with an applicable standard established by section 325 of the Act, shall be based upon tests using a competent and reliable scientific sampling procedure. The Commission will accept "Military Standard 105—Sampling Procedures and Tables for Inspection by Attributes" as such a sampling procedure.

§ 305.7 Determinations of capacity.

The capacity of covered products shall be determined as follows:

(a) *Refrigerators and refrigerator-freezers.* The capacity shall be the total refrigerated volume (VT) and the adjusted total volume (AV) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix A1 to 10 CFR part 430, subpart B.

(b) *Freezers.* The capacity shall be the total refrigerated volume (VT) and the adjusted total volume (AV) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix B1 to 10 CFR part 430, subpart B.

(c) *Dishwashers.* The capacity shall be the place-setting capacity, determined according to appendix C to 10 CFR part 430, subpart B.

(d) *Water heaters.* The capacity shall be the first hour rating, as determined according to appendix E to 10 CFR part 430, subpart B.

(e) *Pool heaters.* The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, as determined according to appendix P to 10 CFR part 430, subpart B.

(f) *Room air conditioners.* The capacity shall be the cooling capacity in Btu's